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CENTRAL FAX CENTER****SEP 29 2008**Intarcia Dkt No. ALE 053.16  
USSN: 10/645,293  
PATENT

<b>CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)</b>	
I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, United States Patent and Trademark Office (Fax No. 571-273-8300) on the date indicated.	
<i>Jerry R. Fabian</i>	29 September 2008
Signature	Date of Transmittal

<b>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</b>	
In Re Application of: PEERY, John R., et al.	Confirmation No.: 7202
Serial No.: 10/645,293	Art Unit: 1618
Filing Date: 20 August 2003	Examiner: Ebrahim, N.G.
Title: SUSTAINED DELIVERY OF AN ACTIVE AGENT USING AN IMPLANTABLE SYSTEM	

**RESPONSE AND AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action in the above-referenced application, mailed 27 March 2008. The response date, with three-month extension, falls on Saturday, 27 September 2008. Accordingly, the response date is Monday, 29 September 2008. A three-month extension of time to respond is requested, and the fee therefore accompanies this paper. No additional fee is believed due; however, the Commissioner is hereby authorized to charge to Deposit Account No. 504212 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, with the exception of the payment of the issue fee. Reconsideration of the application in view of the following amendments and remarks is respectfully requested.

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### **Introductory Comments**

#### **I. Summary of the Office Action.**

In the Office action, dated 27 March 2008, claims 51-73 and 75 have been rejected for the following reasons.

The Examiner rejected claims 54 and 70 under 35 U.S.C. §112, first paragraph, asserting that they fail to comply with the written description requirement. The Examiner further asserted that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

The Examiner rejected claims 51-73 and 75 under 35 U.S.C. 103(a) asserting that the claims are unpatentable over Laby, et al., U.S. Patent No. 4,623,330 in view of Portner, et al., U.S. Patent No. 4,360,019, Magruder, et al., U.S. Patent No. 5,238,687, and further in view of Mia, U.S. Patent No. 5,519,002.

These rejections are believed to be overcome in part by the amendments and are otherwise traversed for reasons discussed below.

#### **II. Overview of the Amendments to the Claims.**

Claims 51-73 and 75 are pending in the application. Claims 51, 52, 54 and 71 are amended without prejudice or disclaimer. Claims 65-70 are canceled without prejudice or disclaimer. Amendment or cancellation of these claims is not intended to be an acquiescence in the Office's assessment of those claims in the Office action, mailed 27 March 2008, and applicants expressly reserve the right to bring the subject matter of the original claims again in a subsequent, related application. After entry of the amendments, claims 51-64, 71-73 and 75 are pending.

The amendments to the claims are presented herein below (after the signature page) in the section titled "Amendments to the Claims."

Support for the amendments to claims 51 and 52 can be found throughout the specification, for example, at the following locations: page 6, line 24, to page 7, line 21; and Abstract.

Support for the amendments to claim 54 can be found throughout the specification, for example, at the following location: page 8, line 18, to page 9, line 24.

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The amendments to claim 71 correct minor typographical errors.

Accordingly, no new matter has been added by way of this amendment and the entry thereof is respectfully requested.